

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re: WHITNEY DESIGN, INC., Debtor.)) Case No. 09-51928) Chapter 11) Honorable Charles E. Rendlen III)) Hearing Date: March 30, 2011) Hearing Time: 10:00 a.m.) Hearing Location:) Courtroom 7-South) United States Bankruptcy Court) Eastern District of Missouri
---	--

MOTION TO DISMISS DEBTOR'S BANKRUPTCY CASE

COMES NOW Debtor Whitney Design, Inc. ("Debtor"), by and through counsel, and moves for an Order dismissing Debtor's bankruptcy case. In support thereof, Debtor states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear and determine this matter pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. § 1112. This matter is a "core" proceeding pursuant to 28 U.S.C. § 157(b).
2. Venue is present in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. On November 21, 2009 (the "Petition Date"), Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Missouri (this "Court").
4. On November 25, 2009, Debtor filed a motion to sell substantially all of its assets to Household Essentials, LLC ("Household Essentials"), subject to higher and better bids (the "Sale Motion").
5. On December 4, 2009, this Court entered an Order establishing bidding and auction procedures for submitting competing bids for Debtor's assets and establishing objection deadlines and hearing dates for the Sale Motion.

6. By Order entered January 29, 2010 (the “Sale Order”), this Court granted the Sale Motion, and the sale of assets to Household Essentials closed that same day.

7. On February 11, 2010, the United States of America (the “United States”) appealed the Sale Order to the United States District Court for the Eastern District of Missouri (the “District Court”). This appeal was dismissed by the District Court on January 11, 2011. The time for the United States to appeal the District Court’s order of dismissal expired on March 14, 2011.

RELIEF REQUESTED

8. Section 1112(b) of the Bankruptcy Code provides that, “on request of a party in interest . . . the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of the creditors and the estate, if the movant establishes cause.”

9. Cause exists in this case to dismiss Debtor’s bankruptcy case because the estate does not have any assets available for distribution to its creditors.

10. During the time in which the appeal was pending, Debtor sold its remaining inventory in the ordinary course of business and has ceased operations. As of February 28, 2011, the only tangible asset remaining in Debtor’s bankruptcy estate was \$6,101 in cash. See Debtor’s Monthly Operating Report for February 2011 (Docket No. 131). This money will be used to pay the outstanding professional fees incurred by Debtor in concluding this bankruptcy case and to pay US Trustee fees and other court costs.

11. The only other assets remaining in Debtor’s bankruptcy estate are avoidance actions under Chapter 5, subchapter III of the Bankruptcy Code and under any other state or federal law providing for recovery of consideration given, or reversal of any transfer by or for the benefit of Debtor (collectively, the “Avoidance Actions”).

12. The only Avoidance Actions of which Debtor is aware are those under § 547 of the Bankruptcy Code for transfers made by Debtor to its creditors in the 90 days prior to the Petition Date (the “Preference Period”)

13. Based on its analysis of the applicability of the ordinary course of business defense to the payments made by Debtor during the Preference Period, Debtor has determined that the costs of pursuing these Avoidance Actions would likely outweigh the net recovery from such Avoidance Actions. This is because Debtor's analysis shows that a majority of the payments made by Debtor during the Preference Period were not made materially later or earlier than the payments made in the twelve months preceding the Preference Period.

14. As Debtor has determined that the Avoidance Actions are of inconsequential value to the estate and the only cash remaining the Debtor's estate is needed to wind up the case, there will be no distribution available to any of Debtor's creditors, either inside or outside of bankruptcy.

15. Cause exists to dismiss Debtor's bankruptcy case and dismissal is in the best interests of Debtor's bankruptcy estate and its creditors because no purpose would be served by Debtor remaining in bankruptcy. The order dismissing the Debtor's case should specifically provide that all orders, judgments, and decrees entered in connection with the Bankruptcy Court shall be unaffected by the dismissal of the case.

WHEREFORE, Debtor respectfully requests that this Court enter an Order dismissing Debtor's bankruptcy case and granting such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

THOMPSON COBURN LLP

By /s/ Allison E. Graves

David A. Warfield, #34288MO

Allison E. Graves, #60748MO

One US Bank Plaza

St. Louis, Missouri 63101

(314) 552-6015 (Phone)

(314)-552-7015 (Fax)

Attorneys for Debtor and Debtor-in-Possession

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and genuine copy of the foregoing was served electronically on this 15th day of March, 2011 on all parties receiving notice via the Court's CM/ECF notice list.

The undersigned further certifies that a true and genuine copy of the foregoing was served this 15th day of March, 2011 on all parties listed on the attached Exhibit A via first class mail, postage prepaid.

/s/ Allison E. Graves

EXHIBIT A			
Name	Address	City, State	Zip Code
ALLIED INDUSTRIAL EQUIPMENT	9388 DIELMAN IND. DR.	ST. LOUIS, MO	63132
CODA INTERNATIONAL LTD.	25 WHEELER AVENUE	PLEASANTVILLE, NY	10570
COLLECTOR OF REVENUE	ST. LOUIS COUNTY GOVERNMENT CENTER, P.O. BOX 11491	ST. LOUIS, MO	63105-0291
COLOR STAR PRODUCTS CO., LTD.	NO 2 YIAN XI RD HONG KUAN INDUSTRIAL PARK	YIANGXIA, FUQING, FUJIAN	CHINA
CONSUMER TESTING LABS (FAR EAST) LTD.	P.O. BOX 952766	ATLANTA, GA	31192-2766
CROWN PACKAGING CORP	PO BOX 17806 M	ST. LOUIS, MO	63195
DANIEL R. JOHNSON	RYAN KROMHOLZ & MANION, S.C., P.O. BOX 26618	MILWAUKEE, WI	53226
DOUGLAS G. PLEUS	14323 S. OUTER FOURTY, SUITE 310 N	CHESTERFIELD, MO	63107
FAVOR LIGHT ENTERPRISE LIMITED	C/O NO. 780 2 SEC WEN CHANG ROAD, TA TU	HSIANG, TAICHUNG TAIWAN	
FOSHAN SHUNDE YOUNGJIAN	HOSUEWARES & HARDWARE NO. 38A YANGDA RD. SANZHOU	FOSHAN CITY, GUANGDONG	
GARVEY SCHUBERT BARER	1191 SECOND AVE, 18TH FLOOR	SEATTLE, WA	98101-2939
HOMEWORLD	ICD PUBLICATIONS PO BOX 854	EAST SETAUKET, NV	11733
JAMES L. GLENN	318 ST. ANDREWS DRIVE, P.O. BOX 35	ST. ALBANS, MO	63073
JOHNSON RAUHOFF	2525 LAKE PINES DRIVE	ST. JOSEPH, MI	49085
MAXPLUS MARKETING INTL. INC.	SUITE 2318, NO. 587 SHATIAN TOWER, CHANG SHOU	SHANGHAI, CHINA	200060
MEIJER VENDOR RECEIVABLES	2929 WALKER N.W.	GRAND RAPIDS, MI	49544
MEYER LOGISTICS	4403 GORDON AVE.	ST. LOUIS, MO	63134
MID AMERICA COFFEE SERVICE	618 SOUTH BOYLE AVE	ST. LOUIS, MO	63110
ONE BEACON	ONE BEACON LANE	CANTON, MA	02021
PHOTO SOURCE, INC.	2349 GRISSOM DRIVE	ST. LOUIS, MO	63146
PIONEER BUSINESS SYSTEMS, INC.	2250 HIGHLAND VILLAGE RD., SUITE 220	HIGHLAND VILLAGE, TX	75077
POLSTER, LIEDER, WOODRUFF	PO BOX 798223	ST. LOUIS, MO	63179-8000
PRIMARY NETWORK, ATTN: ACCOUNTS RECEIVABLE	P.O. BOX 28336	ST. LOUIS, MO	63146
SINCE HARDWARE (GUANG ZHOU) CO. LT	XIANG SHAN VILLAGE, HUA DONG TOWN, HUA DU DISTRICT	GUANGZHOU CITY, CHINA	510890
STORAGE SOURCES GROUP	11536 TEE TIME CIRCLE	NEW PORT RICHEY, FL	34654
THE FISH LAW FIRM P.C.	1770 N. PARK ST., STE 202	NAPERVILLE, IL	60563
THOMAS E. BIRON	BLANK ROME, LLP, ONE LOGAN SQUARE, 130 NORTH 18TH STREET	PHILADELPHIA, PA	19103-6992
TRI-KING (ASIA) LIMITED	UNIT 401-4 4/F, BLOCK A 489-491 CASTLE PEAK RD	KOWLOON, HONG KONG	
WUNDERLICH FIBRE BOX CO	821 CLINTON ST	ST. LOUIS, MO	63102